IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6843 OF 2006

M/s.Loyal Impex & Anr. ...Petitioners

V/s.
Hiralal T. Gehlot & Ors. ...Respondents

Mrs. J.P. Akolkar i/b Shri.A.G. Bhaktawani for the Petitioners.
Shri.M.D. Mali for the Respondents.

CORAM : V.M. KANADE, J.
DATED : 8th MARCH, 2007.

P.C. :-

1. Heard learned counsel for the Petitioners and the learned counsel for the Respondents.

2. The Petitioners are challenging the order passed by Civil Judge, S.D., Thane whereby court has granted conditional leave to Petitioners to defend the suit on depositing amount of Rs.1,03,064/- within a period of 15 days from the date of order.

3. The learned counsel for the Petitioners submitted that there has been no written contract and no negotiable instrument was executed between the parties and therefore, the suit was not

maintainable under the provisions of order 37 rule 2 of C.P.C. She submitted that Trial Court has not passed a reasoned order while granting conditional leave to the Petitioners to defend the suit. She invited my attention to the impugned order.

4. The learned counsel for the Respondents on the other hand submitted that in reply to the application filed by the plaintiff, present petitioner/defendant No.2 had admitted that he was ready to repay agreed amount. He submitted that there was legal liability on the part of the Petitioners and therefore, Lower Court was justified in passing the impugned order.

5. After having perused the impugned order, I find no reasons have been given by the learned Judge. The learned Judge has merely reproduced two judgments on which reliance was placed by defendant No.2. The learned Judge has merely observed that defendants should be directed to deposit 50% of the amount and on same amount being deposited, conditional leave to defend may be granted.

6. Since no reasons have been assigned, there is no

alternative but to set aside the impugned order and to remit back the matter to the Trial Court. The Trial Court may after considering the submissions on behalf of the Petitioners and the Respondents, pass a reasoned order. The Trial Court to decide the application within two months.

. Writ petition is disposed of in the above terms.

V.M. KANADE, J.